

AN ORDINANCE

99409

AUTHORIZING THE ACQUISITION OF FEE SIMPLE TITLE AND/OR EASEMENT INTEREST TO TWELVE PARCELS OF REAL PROPERTY AND FOR OTHER MISCELLANEOUS EXPENSES IN CONNECTION WITH THE AVE MARIA DRAINAGE PROJECT, FROM 1999-2004 GENERAL OBLIGATION DRAINAGE IMPROVEMENT BOND FUNDS IN THE AMOUNT OF \$95,550.00, LOCATED IN COUNCIL DISTRICT 1; DECLARING THE AVE MARIA DRAINAGE PROJECT ("PROJECT") TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE PROPERTY INTERESTS TO THE REAL PROPERTY DESCRIBED BELOW, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT, ALL PROPERTIES BEING IN THE CITY OF SAN ANTONIO, BEXAR COUNTY TEXAS, FOR A PUBLIC PURPOSE; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS FOR THE ACQUISITION OF THE PROPERTIES AND OTHER MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY'S FEES; AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY; AND AUTHORIZING NEGOTIATIONS AND ACQUISITION OF THE FOLLOWING PROPERTIES ON THE APPROVED TERMS:

ACRE(S)	LOT(S)	NCB	SUBDIVISION
0.002	5A	10045	Shearer-Hills
0.097	20	10045	Shearer-Hills
0.039	20	10045	Shearer-Hills
0.152	27	10045	Shearer-Hills
0.077	27	10045	Shearer-Hills
0.004	28	10045	Shearer-Hills
0.009	28	10045	Shearer-Hills
0.044	40	10045	Shearer-Hills
Part A 0.022			
Part B 0.022	40	10045	Shearer-Hills
0.146	41	10045	Shearer-Hills
Part A 0.070			
Part B 0.043	41	10045	Shearer-Hills
0.001	16	10046	Shearer-Hills

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WHEREAS, the City of San Antonio ("City") desires to reconstruct Ave Maria from Jackson Keller to San Pedro including sidewalks, curbs, driveway approaches, drainage and utility improvements; and

WHEREAS, the construction of the street widening is a necessary public project and is in the best interest of the health, safety and welfare of the public; and

WHEREAS, it is further necessary to obtain and acquire the fee simple title and/or easement interest in twelve (12) parcels of land (hereinafter referred to as the "Property") for use as part of the Project and the Property to be acquired is more particularly described in **Attachment I** attached hereto; and

WHEREAS, in order to proceed with the acquisition of the Property, it is also deemed necessary and appropriate to establish just compensation for the Property to be acquired; and

WHEREAS, independent appraisals for the Property to be acquired have been completed and reviewed by the City's staff of the Real Estate Section of the Public Works Department and a fair market value has been determined for the Property; and

WHEREAS, title fees, legal fees, appraisal fees, right of entry fees, miscellaneous expenses to prepare each parcel for use, and lender fees will have to be paid as necessary expenses for the completion of the Project; and

WHEREAS, funds are available to acquire the necessary right of way and pay the necessary expenses for this project; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Ave Maria Drainage Project is hereby declared to be a necessary public project.

SECTION 2. The City Council of the City of San Antonio finds a public necessity exists to acquire the fee simple title to and/or easement(s) Property, by negotiation and/or condemnation, if necessary, for the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements as part of the Ave Maria Drainage Project in San Antonio, Bexar County, Texas.

SECTION 3. A specific public necessity exists to acquire the Property by negotiation and/or condemnation. if necessary, the property (hereinafter referred to as the "Property") more specifically described in **Attachment I**, attached hereto and incorporated herein for all purposes.

SECTION 4. The approved compensation for the Property is shown in **Attachment II**, which is attached hereto and incorporated herein for all purposes.

SECTION 5. The following financial adjustments are hereby authorized to effect this Ordinance:

- a) The budget in Fund No. 45-962095, 1999 Drainage Improvements, Sold in 2001, shall be revised by reducing Index Code 695585, entitled Unallocated Appropriations: Proceeds, in the amount of \$95,550.00.
- b) The amount of \$57,850.00 is appropriated in Fund No. 45-962002, 1999 Drainage Improvements, Sold in 2001, in Index Code 784678, entitled "Purchase of Land", and is

authorized to be encumbered and made payable for purchase of land in connection with the Ave Maria Drainage Project.

- c) The amount of \$5,000.00 is appropriated in Fund No. 45-962002, 1999 Drainage Improvements, Sold in 2001, in Index Code 784819, entitled "Title Fees", and is authorized to be encumbered and made payable for title fees in connection with the Ave Maria Drainage Project.
- d) The amount of \$12,000.00 is appropriated in Fund No. 45-962002, 1999 Drainage Improvements, Sold in 2001, in Index Code 784959, entitled "Administrative Settlements", and is authorized to be encumbered and made payable for administrative settlements in connection with the Ave Maria Drainage Project.

The amount of \$12,000.00 is appropriated in Fund No. 45-962002, 1999 Drainage Improvements, Sold in 2001, in Index Code 785097, entitled "Legal Fees", and is authorized to be encumbered and made payable for legal fees in connection with the Ave Maria Drainage Project.

- e) The amount of \$2,000.00 is appropriated in Fund No. 45-962002, 1999 Drainage Improvements, Sold in 2001, in Index Code 785238, entitled "Lender Fees", and is authorized to be encumbered and made payable for lender fees in connection with the Ave Maria Drainage Project.
- f) The amount of \$1,200.00 is appropriated in Fund No. 45-962002, 1999 Drainage Improvements, Sold in 2001, in Index Code 785378, entitled "Right of Entry Fees", and is authorized to be encumbered and made payable for right of entry fees in connection with the Ave Maria Drainage Project.
- g) The amount of \$3,500.00 is appropriated in Fund No. 45-962002, 1999 Drainage Improvements, Sold in 2001, in Index Code 785519, entitled "Appraisal Fees", and is authorized to be encumbered and made payable for appraisal fees in connection with the Ave Maria Drainage Project.
- h) The amount of \$2,000.00 is appropriated in Fund No. 45-962002, 1999 Drainage Improvements, Sold in 2001, in Index Code 785659, entitled "Miscellaneous Fees", and is authorized to be encumbered and made payable for miscellaneous fees in connection with the Ave Maria Drainage Project.

SECTION 6. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocation to specific Index Codes and Fund Numbers as necessary to carry out the purpose of this Ordinance.


SECTION 7. The City staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Property at fair market value as found in Section 4, above, to execute sales agreements purchasing the Property from the owners as the owner's are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized to conduct such practice in the State of Texas and in Bexar County or by order of a Court of competent jurisdiction and to finalize such purchases on behalf of the City of San Antonio. The City Council finds that it is in the best interest to obtain the Property from whomever holds legal

and equitable title as identified according to the procedure adopted through this Ordinance and the Director of Finance is directed to disburse funds in accordance herewith.

SECTION 8. In the event that the City staff is unable to acquire one of more parcels of the Property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcels for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C. and the law firm of Bracewell & Patterson, L.L.P. as special counsel as may be needed from time to time and to pay for the services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

SECTION 9. This Ordinance shall be effective on the 4th day of July 2004.


PASSED AND APPROVED this the 24th day of June, 2004.


M A Y O R
EDWARD D. GARZA

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


City Attorney